

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Return Date & Time:
December 19, 2017 @ 11:00AM

-----X
IN RE:

Chapter 13
Case No. 17-37087-cgm

Michele R. Lotz,

Debtor.
-----X

**NOTICE OF MOTION TO
CONTINUE AUTOMATIC STAY**

SIRS:

PLEASE TAKE NOTICE, upon the annexed Motion, the Debtor, will move before Honorable Cecelia G. Morris, Chief United States Bankruptcy Judge, at the Courthouse located at 355 Main Street, Poughkeepsie, New York 12601 on the 19th day of December 2017 at 11:00 o'clock in the forenoon or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. Sec.362 (c) (3) (A) (B) and (C) continuing the automatic stay in this case as to all creditors, and for such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, shall be served and filed at least three (3) days prior to the return date thereof.

Dated: Poughkeepsie, New York
December 11, 2017

Yours, etc.

/S/ Julius A. Rivera, Jr., Esq.

Julius A. Rivera, Jr., Esq.
Attorney for Debtor
309 Mill Street
Poughkeepsie, NY 12601
(845) 452-1422

UNITED STATES BANKRUPTCY COURT
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Return Date & Time:
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IN RE:

Michele R. Lotz,

Case No. 17-37087-cgm
Chapter 13

MOTION

Debtors.

-----X

TO: Honorable Cecelia G. Morris Chief U.S. Bankruptcy Judge

1. This case was filed on December 8, 2017. The Debtor's previous Chapter 13 case was pending within the one year immediately prior to the filing of this petition. The previous case was filed on February 14, 2014 under case number 14-35270, the case was dismissed upon the Trustee's Motion by Order dated November 30, 2017. The legal basis of the dismissal was 11 U.S.C. Sec. 1307 (c)(1) and (c)(6).
2. Shortly after the plan in the previous case was confirmed, the debtors husbands' father was diagnosed with bladder cancer and his mother with dementia. The debtors' husband financial contribution to the household substantially decreased because he had to care for his elderly parents. He missed much work and lost employment due to same. The debtor and her husband had to incur the expense of relocating the husbands parents. They defaulted on their mortgage. The debtors husbands father passed away in January of 2017 and the debtor and her husband had to pay for the funeral arrangements.
3. There has been a substantial change in circumstances in that the debtors' husband no longer is required to care for his father, he having passed away. Also the debtors' husbands mother is now also cared for by other family and friends.

4. Debtor is acting in good faith in the filing of this petition as she fully intends to comply with all Chapter 13 requirements and there has been a substantial change of circumstances since the dismissal of the previous case.

WHEREFORE, it is respectfully requested that the Motion to continue the Automatic Stay be granted and that such other and further relief be entered as the Court deems just and proper.

Dated: Poughkeepsie, New York
December 11, 2017

/S/ Julius A. Rivera, Jr., Esq.

Julius A. Rivera, Jr., Esq.
Attorney for Debtor
309 Mill Street
Poughkeepsie, NY 12601
(845) 452-1422

MEMORANDUM OF LAW ON BEHALF OF THE DEBTOR

PRELIMINARY STATEMENT

This Memorandum of Law is respectfully submitted in support of the motion of the Debtors for an Order continuing the automatic stay.

STATEMENT OF FACTS

The statement of facts in support of the Debtors motion is contained in the Motion attached hereto.

ARGUMENT

The court in this case should extend the automatic stay pursuant to 11 U.S.C. Section 362(c)(3)(A)(B) and(C) as this case has been filed in good faith.

The Debtor's previous case was dismissed upon the Trustee's Motion to Dismiss based upon Bankruptcy Code Provisions 11 U.S.C. Sec. 1307 (c)(1) and (c)(6). Section 362 (c)(3) (C)(i) (III) states that a case is presumptively filed not in good faith if there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next or previous or any other reason to provide that the case will conclude with a confirmed plan that will be fully performed.

It is respectfully submitted that the facts and circumstances as stated in the attached Motion are sufficient to rebut this presumption of bad faith. The facts and circumstances support a finding that there has been a change in circumstances since the dismissal of the prior case giving reason to conclude that if this court extends the automatic stay, the Debtors will be able to confirm and fully perform the confirmed plan.

CONCLUSION

For the forgoing reasons, it is respectfully requested that the Court Order that the automatic stay be continued as to all creditors.

Respectfully submitted,

/S/ Julius A. Rivera, Jr., Esq.

Julius A. Rivera, Jr., Esq.
Attorney for Debtors
309 Mill Street
Poughkeepsie, NY 12601
(845) 452-1422

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X Case No. 17-37087-cgm
IN RE: Chapter 13

Michele R. Lotz,

Debtor.

-----X

ORDER CONTINUING AUTOMATIC STAY

The court having conducted a hearing on December 19, 2017, and on the record, based upon said hearing, granted a further extension of the stay in this case as to all creditors to and including , 2018, it is

ORDERED that the Automatic Stay in this case as to all creditors is continued to and including .

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In Re:

Michele R. Lotz,

Case No. 17-37087-cgm
Chapter 13

Debtors.

-----X

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Notice of Motion, Motion to continue the Automatic Stay with memorandum of Law and proposed order was furnished to the following parties on the 11th day of December, 2017 by United States first-class mail and/or by electronic notification:

Jeffrey L. Sapir, Esq.
Chapter 13 Trustee
399 Knollwood Road, Suite 102
White Plains, New York 10603

Office of the U.S. Trustee
74 Chapel Street, Suite 200
Albany, NY 12207

Michele R. Lotz
242 Cream Street
Poughkeepsie, NY 12601

All Creditors on the attached list

Dated: Poughkeepsie, New York
December 11, 2017

/s/Julius A. Rivera, Jr., Esq.
Julius A. Rivera, Jr., Esq.
Attorney for Debtors
309 Mill Street
Poughkeepsie, New York 12601
(845) 452-1422

Label Matrix for local noticing
0208-4
Case 17-37087-cgm
Southern District of New York
Poughkeepsie
Mon Dec 11 12:13:41 EST 2017

BARCLAYS BANK DELAWARE
100 S WEST ST
WILMINGTON, DE 19801-5015

CHASE CARD SERVICES
ATTN: CORRESPONDENCE
PO BOX 15278
WILMINGTON, DE 19850-5278

COMENITY BANK / THE LIMITED
ATTN: BANKRUPTCY
PO BOX 182125
COLUMBUS, OH 43218-2125

COMENITY BANK/LANE BRYANT
PO BOX 182125
COLUMBUS, OH 43218-2125

COMENITY CAPITAL BANK/HSN
PO BOX 182125
COLUMBUS, OH 43218-2125

GENESIS BANKCARD SRVS
15220 NW GREENBRIER PKWY STE 200
BEAVERTON, OR 97006-5762

KOHL'S/CAPITAL ONE
KOHL'S CREDIT
PO BOX 3043
MILWAUKEE, WI 53201-3043

RHINEBECK BANK
2 JEFFERSON PLZ
POUGHKEEPSIE, NY 12601-4060

SYNCHRONY BANK/ JC PENNEYS
ATTN: BANKRUPTCY
PO BOX 965060
ORLANDO, FL 32896-5060

Poughkeepsie Division
355 Main Street
Poughkeepsie, NY 12601-3315

CAPITAL ONE
ATTN: GENERAL CORRESPONDENCE/BANKRUPTCY
PO BOX 30285
SALT LAKE CITY, UT 84130-0285

COLLECTION BUREAU HUDSON VALLEY, INC.
PO BOX 831
NEWBURGH, NY 12551-0831

COMENITY BANK/FASBUG
PO BOX 182789
COLUMBUS, OH 43218-2789

COMENITY BANK/VICTORIA SECRET
ATTN: BANKRUPTCY
PO BOX 182125
COLUMBUS, OH 43218-2125

COMENITYCAPITAL/MODELL
COMENITY BANK
PO BOX 182125
COLUMBUS, OH 43218-2125

HUDSON VALLEY FEDERAL
1099 MORTON BLVD
KINGSTON, NY 12401-1503

MAZDA AMER CREDIT
ATTN: CUSTOMER ASSISTANCE CENTER
PO BOX 19734
IRVINE, CA 92623-9734

SYNCH/HOME DSN OUTDR L
ATTN: BANKRUPTCY
PO BOX 965060
ORLANDO, FL 32896-5060

SYNCHRONY BANK/AMAZON
ATTN: BANKRUPTCY
PO BOX 965060
ORLANDO, FL 32896-5060

BANK OF AMERICA
NC4-105-03-14
PO BOX 26012
GREENSBORO, NC 27420-6012

CARRINGTON MORTGAGE SERVICE, LLC
PO BOX 3489
ANAHEIM, CA 92803-3489

COMENITY BANK
PO BOX 182125
COLUMBUS, OH 43218-2125

COMENITY BANK/LANE BRYANT
ATTN: BANKRUPTCY
PO BOX 182125
COLUMBUS, OH 43218-2125

COMENITY BKL/ULTA
PO BOX 182125
COLUMBUS, OH 43218-2125

FINGERHUT
BANKRUPTCY DEPT
6250 RIDGEWOOD RD
SAINT CLOUD, MN 56303-0820

HUDSON VALLEY FEDERAL
159 BARNEGAT RD
POUGHKEEPSIE, NY 12601-5454

PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541-1021

SYNCH/MUSIC
ATTN: BANKRUPTCY
PO BOX 965060
ORLANDO, FL 32896-5060

SYNCHRONY BANK/CARE CREDIT
ATTN: BANKRUPTCY
PO BOX 965060
ORLANDO, FL 32896-5060

SYNCHRONY BANK/PC RICHARDS & SONS
ATTN: BANKRUPTCY
PO BOX 965060
ORLANDO, FL 32896-5060

SYNCHRONY BANK/QVC
ATTN: BANKRUPTCY
PO BOX 965060
ORLANDO, FL 32896-5060

SYNCHRONY BANK/TJX
ATTN: BANKRUPTCY
PO BOX 965060
ORLANDO, FL 32896-5060

SYNCHRONY BANK/WALMART
ATTN: BANKRUPTCY
PO BOX 965060
ORLANDO, FL 32896-5060

TARGET
C/O FINANCIAL & RETAIL SRVS
MAILSTOPN BT POB 9475
MINNEAPOLIS, MN 55440-9475

United States Trustee
74 Chapel Street
Albany, NY 12207-2190

WELLS FARGO BANK NV NA
PO BOX 31557
BILLINGS, MT 59107-1557

(p)WELLS FARGO BANK NA
WELLS FARGO HOME MORTGAGE AMERICAS SERVICING
ATTN BANKRUPTCY DEPT MAC X7801-014
3476 STATEVIEW BLVD
FORT MILL SC 29715-7203

WFFNB/BOBS DISCOUNT FURNITURE
PO BOX 10438
DES MOINES, IA 50306-0438

Jeffrey L. Sapir-13
As Chapter 13 and 12 Trustee
399 Knollwood Road
Suite 102
White Plains, NY 10603-1936

Julius A. Rivera Jr.
309 Mill Street
Poughkeepsie, NY 12601-3115

Michele R. Lotz
242 Cream Street
Poughkeepsie, NY 12601-6317

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

WELLS FARGO HM MORTGAG
8480 STAGECOACH CIR
FREDERICK, MD 21701

End of Label Matrix	
Mailable recipients	41
Bypassed recipients	0
Total	41